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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/082,935	10/22/2001	Dieter Hoi	AT000062	4069

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS  
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BRIARCLIFF MANOR, NY 10510

EXAMINER

AUGUSTIN, EVENS J

ART UNIT PAPER NUMBER

3621

DATE MAILED: 09/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/082,935

Applicant(s)

HOI ET AL.

Examiner

Evans Augustin

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 October 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 October 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>10/22/2001</u> . | 6) <input type="checkbox"/> Other: _____  |

***Status of Claims***

1. Claims 1-13 have been examined.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 8 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As per claim 8, the applicant recites the term "has nearly been used up". The specification fails to clearly define to one of ordinary skills in the art the proper meaning of the term. The applicant must particularly point out and distinctly claim the subject matter which applicant regards as the invention.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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4. Claims 1-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cilurzo et al. (U.S. 6434526), in view of Constant et al. (U.S. 5412575).

During patent examination the pending claims must be interpreted as broadly as their terms reasonably allow. The reason is simply that during patent prosecution when claims can be amended, ambiguities should be recognized, scope and breadth of language explored, and clarification imposed. In re Zletz, 893 F.2d 319, 321-22, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989)

The office interprets the invention as licensing for software application in which the owner/distributor of the software gets compensated for on a pay per usage basis. In other words, whenever the software product gets used, licensing requirement gets reconciled and payment is made for the usage of the software. In this application, the software product happens to be voice/speech recognition software that translates voice/speech into text.

As per claims 1-13, Cilurzo et al. disclose an invention that relates to communication networks and more particularly to the provision of a speech recognition capacity to special application program services provided on a network. The invention includes:

- Providing on a network software with speech recognition capability (column 2, lines 49-51)
- A server receiving voice input from the user - the server processes the voice input and transmits back text transcription of the voice input (column 2, lines 22-37)
- The fee determination for the software being used to transcribe voice-to-text process can be a monthly rental fee, or a service price for the use of the software (column 2, lines 38-40)

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- Speech data is inputted into a service server that does processing and transmitting the text output back to the user (column 4, lines 1-56)

Cilurzo et al. did not explicitly describe a method/system in which the voice-to-text transcription software is licensed on a pay per usage basis.

However, Constant et al. describe an invention that relates to a software pay per use licensing system. In a computer network, a user can access a software package by debiting credits from a pool of usage credits. Different software packages or groups of packages would have their own usage credit pools and might cost different number credits per unit of time or usage. Under this system, there is no set number of users that can access the software package at one time. Rather, the use of a software package is only limited by the number of usage credits available for a particular software package (column 9, lines 54-67, column 10, lines 1-12).

Therefore, it would have been obvious for one of ordinary skill in the art at the time of the applicant's invention to construct a system in which the voice-to-text transcription software is licensed on a pay per usage basis. It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to implement a system in which the voice-to-text transcription software is licensed on a pay per usage basis pay-per-use creates an annuity flow of revenues allowing the initial capital cost of the test equipment to be greatly reduced, and the loss of revenue to the transcription services to be replaced over time with the annuity "expense" payments associated with actually using the transcription software (column 9, lines 37-42).

### ***Conclusion***

5. *Examiner has pointed out particular references contained in the prior arts of record in the body of this action for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested that if the applicant is preparing to respond, to consider fully the entire references as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior arts or disclosed by the examiner.*
6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
- **Taylor (US 6424935)** - Invention relates to the field of computer systems and in particular to a speech-to-text converter with a dialect database and two-way speech recognition capability
  - **Chandler et al. (US 6477491)** - This invention relates to a multiple speaker speech processing system for automatically converting the vocal statements of multiple speakers into a unitary, combined record, and more particularly to a system that creates a transcript of a proceeding among multiple speakers, accurately transcribing the words and tracking the identity of each speaker
  - **Cruickshank et al. (US 6816468)** - The invention relates to the provision of a telephone conferencing (also referred to as an audio conferencing) system. More

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particularly, the invention provides for transcription and, if desired, text and audio translation of the speech of participants to a teleconference hosted by the disclosed telephone conferencing system

- **Craig et al. (US 6920425)** - This invention relates generally to telecommunications, and in particular, to a system and method for deriving a visual interface response for a telephone set that has a display from an existing interactive voice response system

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Evens Augustin whose telephone number is 571-272-6860. The examiner can normally be reached on Monday thru Friday 8 to 5 pm.

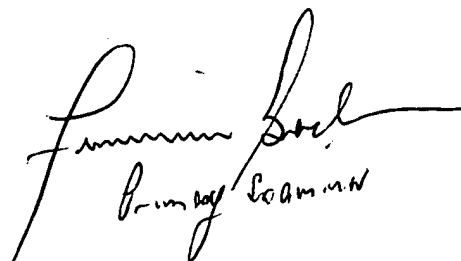
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jim Trammel can be reached on 571-272-6712.

Any response to this action should be mailed to:

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is 571-272-6584.

Evens J. Augustin  
August 31, 2005  
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Jim Trammel